

ROANOKE RIVER BASIN BI-STATE COMMISSION
Clarksville, Virginia
August 18, 2010

Roanoke River Basin Bi-State Commission (RRBBC) members present:

NC: Representative James Crawford, Representative Edith Warren, Representative Michael Wray, Larry Yarborough, Nate Hall.

VA: Senator Roscoe Reynolds, Delegate Thomas Wright, Delegate Charles Poindexter, Delegate Kathy Byron, John Feild, Mike McEvoy, Joe Topham for Congressman Tom Perriello.

Staff present:

NC: Tom Reeder, NC DENR; Timmy Baynes, Kerr-COG, Gene Addesso.

VA: Tammy Stephenson, DEQ; Scott Kudlas, DEQ.

Virginia Roanoke River Advisory Committee: John Lindsey, Bob Jean, Billy Martin, Read Charlton, Tim Pace, Evelyn Janney, Bill Lindenmuth, .

Others : Andrew Lester, Jerry Lovelace, Barry Dunkley, Byron Motley, Doug Bowman, Wayne Carter, Vernon Wilson, Alta Compton, John Ryan, Chuck Peoples, Willie Jones, Randy Arno, Katherine Mull, Lisa Andrews, Lisa Andrews, Phillip Lovelace, Jim Thornton, Vernon Wilson, Jean Richter, Pete Kornegay, Bill Edwards, Allen Piner.

Call Meeting to Order

Mr. Feild called the meeting to order.

Welcome

Wayne Carter, Mecklenburg County Administrator, welcomed everyone to Mecklenburg County and gave a history of Kerr Lake/Buggs Island..

Recognition of Members and Guests

Mr. Feild introduced Joe Topham, representing Representative Tom Perriello. He then asked for introductions around the room.

Minutes

Upon a motion by Delegate Byron, seconded by Delegate Wright, the minutes of the March 31, 2010 meeting were approved with unanimous vote of the Commission.

Election of a 1st Vice-Chair (from North Carolina) to replace Rep. Lucy Allen

Mr. Feild explained that due to the resignation of Representative Lucy Allen, the Commission needed to elect a new 1st Vice-Chair, which needed to be a North Carolina representative, per the by laws. Representative Wray nominated Representative Jim Crawford. Upon a motion by Mr. Yarborough, seconded by Delegate Wright, the nominations were closed. Representative Warren made a motion, seconded by Delegate

Wright, to elect Representative Jim Crawford as 1st Vice-Chair. The group agreed unanimously.

Mr. Feild took a few minutes to mention the good work done by Representative Allen during her tenure on the Commission.

Committee Reports

NC Roanoke River Basin Advisory Committee

Timmy Baynes gave the report in Rick Seekins' absence. He said the group met in Oxford and discussed membership. They are in the process of reappointing members to the advisory committee and hope to have this complete by the end of September. They are also looking at the water allocation report and considering a hybrid of options 2 and 3. Currently, the staff is charged with looking into this.

Mr. Addesso added that Ms. Stephenson sent legislation which allowed for NC representatives to serve on the VRRBAC. Katherine Mull was appointed as the NC representative on the VRRBAC. The NC legislation does not have this provision for VA representation.

VA Roanoke River Basin Advisory Committee (VRRBAC)

Mr. McEvoy reported on VRRBAC activities. The VRRBAC met three times since the last Commission meeting. There were two main issues discussed: Allocation of Kerr Reservoir and Interbasin Transfer process in VA. He said Virginia does not have explicit IBT process, although Virginia does have a defined water withdrawal permitting process. North Carolina has an IBT process, but not a defined water withdrawal permitting process.

He said the VRRBAC is looking at a modified version of Alternative 2 of the water allocation report. The goal was to have both states involve with the allocation working with the Corps of Engineers through a Memorandum of Understanding.

Delegate Wright read the motion made at the August 2 meeting:

"The existing allocation of the Roanoke River Basin held in the J. H. Kerr Reservoir shall be divided by the states of North Carolina and Virginia. The partition of the existing allocation shall be based upon the geographical footprint or miles of shoreline contained within each state based on the U. S. Corp of Engineer's calculations of what portion lies in each state. This would have basis in Riparian Law wherein rights to water along a watercourse are based upon the footprint along the watercourse in relation to everyone else on the watercourse. Payment for the allocation shall be no greater than the provisions of the Water Supply Act of 1958 which provides for a thirty-year payment schedule to the U. S. Treasury. Payments shall be paid at such time as an allocation is awarded by the respective states. The states will be charged to administer the allocations for the Roanoke River Basin through the respective Secretaries of Natural Resources by a memorandum of understanding or agreement developed between the two states and in conjunction with the U. S. Army Corps of engineers."

Mr. Feild opened the door for discussion.

Delegate Wright said he understood that both advisory committees would make recommendations, which would then go to the Ad Hoc Committee.

Mr. Feild turned the gavel over to Ms. Stephenson so he could enter into discussion on the issue. He then stated that he thought Virginia's position should be a partition of the resource following lines of geologic footprint of the reservoir. He had information from the Corps of Engineers of what that is which he shared with the group. There may be a couple of ways of figuring a split allocation. He further explained that the breakdown could be a 65/35 split or a 75/25 split, both VA/NC. There was a question whether the entire allocation should be considered, or only the remaining allocation. He then suggested they start negotiation with a 50/50 split.

Mr. Adesso stated that the starting point of 50,000 ac/ft is under question and asked Allen Piner to address.

Mr. Piner said the issue will be presented in the symposium tomorrow, but he gets the impression that the 50,000 ac/ft is not a hard ceiling, that there may be more available if there is proper justification. He said there will be an expert from the Corp of Engineers speaking on the topic at the symposium. From the Corps' standpoint, Mr. Piner said they welcome suggestions and identification of needs for the next 30-50 years. If a request comes from both states, he cannot imagine that it would be turned down.

Mr. Yarborough said North Carolina has not discussed partitioning of the allocation, only protection of the basin. He thinks the NC folks need to discuss with their advisory committee to be better prepared to discussion as a Commission.

Representative Crawford suggested the issue be referred to the Ad Hoc Committee. He agreed that the NC Advisory Committee needs to consider partitioning, but they need time to do that.

Mr. Reeder said that riparian rights are defined as reasonable use. In NC, they have never given rights based on footprint; just whoever has land adjacent has reasonable rights.

Mr. Kudlas suggested they think in terms of storage allocation. In Virginia, they are governed by a permit from DEQ even if the Corps of Engineers grants an allocation. Mr. Reeder confirmed that anyone in North Carolina can make a withdrawal without a permit unless it is an Interbasin transfer.

After much discussion on the issue, the matter was referred to the Ad Hoc committee to consider a plan for allocation (partitioning) and language for a Memorandum of Understanding. Delegate Poindexter made the following motion: 1) There is general agreement that a Memorandum of Understanding approach is proper; 2) there is general agreement to work on allocation partition; 3) Task the Ad Hoc Committee to work on

specifics of the partitioning. The Ad Hoc Committee should report back in 3-6 months. Mr. Yarborough seconded the motion. It was noted that in Virginia, the Governor can agree to a Memorandum of Understanding, but in North Carolina, General Assembly action may be required. The Commission agreed unanimously on the motion.

Delegate Wright added that the biggest issue remaining is the partitioning. Once this matter is resolved, the process should move quickly.

Presentations

Gene Addesso gave a presentation on the "Winter of 2009-2010 Kerr Lake Flow Deviation Request," which is an official part of these minutes.

Jean Richter of the U. S. Fish and Wildlife Service gave a presentation regarding fish and wildlife in the Basin. A copy of the presentation is a part of these minutes.

Chuck Peoples, Roanoke River Project Director, North Carolina Chapter, the Nature Conservancy, gave a presentation on the "Roanoke River: Conservation, Hydrology, Interim Alternative 6B, and the 216 Study," a copy of which is part of these minutes.

John Ryan, CEO of the Roanoke River Basin Association, explained that the dam is designed for flood control, but recreation and many other issues need to be considered as well. he said that mistakes were made when the dam was built, they did not buy enough land to keep private property out of the flood plain.

It was agreed that this is a large issue, and stakeholders up and down stream need to weigh in. Mr. Feild entertained a motion to have presentations at the Advisory Committee meetings from stakeholders, then Advisory Committees could make recommendations to the Commission. Mr. Yarborough made the motion, which was seconded by Delegate Poindexter, and agreed unanimously by the Commission, although a quorum was not present, as many members had to leave. Mr. Hall asked that the matter be back on a future agenda.

Mr. Feild asked staff to determine a date and place for the next Commission meeting, which is scheduled to be in North Carolina.

As there was no further business to discuss, the meeting was adjourned at 3:50 p.m.